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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/031,065	02/26/98	BOWLING J	10-1238

QM11/0517

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EXAMINER	
ROSENBAUM, M	
ART UNIT	**PAPER NUMBER**
3725	

DATE MAILED: 05/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/031,065	Bowling et al
Examiner	**Group Art Unit**
MARK ROSENBAUM	3725

☐ Responsive to communication(s) filed on _____ .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *three* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-22* is/are pending in the application.

Of the above, claim(s) *12-22* is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-11* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *4*

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-11, drawn to a method of treating comminuted cellulosic fibrous material, classified in class 241, subclass 30.

   II. Claims 12-16, drawn to a method of refurbishing a star feeder, classified in class 29, subclass 402.03.

   III. Claims 17-22, drawn to a star feeder assembly, classified in class 241, subclass 242.

2. The inventions are distinct, each from the other because of the following reasons: inventions I and II are two different methods. Invention I is used for treating comminuted cellulosic fibrous material, while invention II is used for refurbishing a star feeder. Invention I does not require the method of refurbishing a star feeder, while invention II does not require the method of treating comminuted cellulosic fibrous material.

3.3. Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process, such as feeding grain..

4. Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process, such as feeding grain.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Mr. Vanderhye on Feb. 22, 1999 a provisional election was made with the right to traverse to prosecute the invention of Group I, claims 1-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Specification

8. The disclosure is objected to because of the following informalities: page 11, line 19 is confusing and should be rewritten.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1,2,6,7,9,10,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Continuous Digesters publication (Digesters) in view of Granite.

Digesters discloses the basic process but has no provision for easily replacing the shear edge which results in expensive maintenance costs. Granite solves this problem by disclosing similar apparatus in figure 2 including the use of replaceable shear edges. In order to reduce maintenance costs, it would have been obvious for one of ordinary skill in the art to modify Digesters by using replaceable shear edges, taught to be desirable by Granite. The remaining limitations would then have been obvious design choices only. For example, the use of elongated slots for adjusting means is well known in the art and of no patentable merit.

11. Claims 3,4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Digesters in view of Granite as applied to claim 1 above, and further in view of Chafee.

The basic combination does not use plural plates which could result in expensive material costs. Chafee solves this problem by disclosing similar apparatus including the use of plural plates; note particularly figure 2. In order to reduce material costs, it would have been obvious for one of ordinary skill in the art to modify Digesters by using plural plates , taught to be desirable by Chafee.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Digesters in view of Granite as applied to claim 1 above, and further in view of Buboltz.

The basic combination does not use reversible blades which is an inefficient use of the apparatus. Buboltz solves this problem by disclosing similar apparatus including the use of reversible blades. In order to render the apparatus more efficient, it would have been obvious for one of ordinary skill in the art to modify Digesters by providing reversible blades, taught to be desirable by Buboltz.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is (703) 308-1788.

MARK ROSENBAUM

PRIMARY EXAMINER

ART UNIT 3725

MR

May 12, 1999